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No. 06-1347

In the Supreme Court of the United States

JAMES M. DUFF, WILLIAM E. STRATTON, AND TERRENCE DOLAN, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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OPINIONS BELOW

Petitioner contends that, on review pursuant to United States v. *Booker*, 543 U.S. 220 (2005), a federal court of appeals should not treat a sentence within the advisory Sentencing Guidelines range as presumptively reasonable. On November 3, 2006, this Court granted certiorari in *Claiborne* v. *United States*, No. 06-5618, and *Rita* v. *United States*, No. 06-5754, to address various aspects of sentencing procedure under *Booker*, including, in *Rita*, whether it is consistent with *Booker* to accord a presumption of reasonableness to within-Guidelines sentences. Accordingly, the petition for a writ of certiorari should be held pending the Court's resolution

of *Claiborne* and *Rita*, and then disposed of as appropriate in light of the decisions in those cases.*

Respectfully submitted.

PAUL D. CLEMENT
Solicitor General

APRIL 2007

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* The government waives any further response to the petition unless this Court requests otherwise.